

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
v.) Case No. 18-CR-00171-CVE
)
)
FNU LNU, a/k/a "Lobo," et al.,)
)
)
Defendant(s).)

**GOVERNMENT'S RESPONSE TO DEFENDANTS'
MOTION FOR DISCOVERY CONFERENCE**

The United States by and through its attorneys, R. Trent Shores, United States Attorney for the Northern District of Oklahoma, and Joel-lyn A. McCormick, Assistant United States Attorney, submits its response to the Motion for Discovery Conference (Dkt. #135) filed by Alfredo Herrera and the Motions to Join filed by Defendants, Jose Peregrina-Paez (Dkt. #137); Domingo Francisco Aguirre-Diaz (Dkt. #139); Cesiah Sanchez (Dkt. #140); Maria Arrellano (Dkt. #143); Javier Passement (Dkt. #145). In response, the government offer as follows:

1. On January 7, 2019, Defendant Alfredo filed a Request for Discovery Conference.
2. Numerous co-defendants filed motions to join Defendant Herrera's motion.
3. In response, the government advises that it continues to make an effort to work with defense counsel to address discovery issues.
4. After the defendants filed their motions, government's counsel coordinated a meeting with counsel to discuss pending discovery and current scheduling orders.

5. Because the prosecutions in Northern District of Oklahoma Case No. 18-CR-000139-GKF and 18-CR-000171-CVE are related, government's counsel extended its invitation for a meeting to all counsel in both cases.

6. To-date, the government has disseminated three (3) discovery productions in CR-000139-GKF and four (4) discovery productions in 18-CR-000171-CVE.

7. Based on the availability of counsel, the government convened a meeting at the United States Attorney's Office on January 25, 2019, at 1:00 p.m.

8. At the meeting, government's counsel was assisted by Kristina Batterson, Litigation Support Analyst (LSA), who is primarily responsible for processing the discovery in this matter.

9. Delay in the government's ability to process and distribute the pending discovery production resulted, in part, due to the partial government shutdown which began on December 22, 2018.

10. LSA Batterson was one of the non-exempt employees who was furloughed on December 22nd and not allowed to return to work for weeks.

11. At the time she was placed on furlough, LSA Batterson was processing the items the government will include in the pending discovery production.

12. At the time of this filing, LSA Batterson has resumed processing the pending discovery production.

13. The pending production contains over 199,000 pages including:

a. Search warrant documents seized from multiple locations including Casa Herrera;

- b. Additional Title III transcripts and pleadings;
- c. Photographs from surveillance;
- d. Bank records; and
- e. Multiple phone dumps.

14. To assist in counsel's ability to understand what would be included in the government's pending production, the government provided defense counsel with an index for the pending discovery production.

15. LSA Batterson explained she is beginning the process of uploading new discovery to hard drives. LSA Batterson was not able to specific exactly how long it would take to complete the updated hard drives. In the past, it taken as long as 24-36 hours to upload discovery to one hard drive.

16. Government's counsel explained that we would contact counsel as the hard drives are completed, giving priority to Defendants Herrera, Aguirre, and Passement who are all charged in both CR-000139-GKF and 18-CR-000171-CVE.

17. In addition to discussing the status of discovery, counsel discussed their respective positions concerning the need for a continuance of all pending days.

18. The consensus among counsel was that it would be reasonable and necessary to seek a continuance of all pending dates in both cases.

19. While there was a consensus that the parties will need additional time, there was no firm agreement among all counsel regarding the amount of time the parties should request.

20. Government's counsel agreed to draft a Joint Motion for Continuance to be filed in both CR-000139-GKF and 18-CR-000171-CVE. Accordingly, government's counsel will circulate a draft prior to filing.

21. The government will be prepared to provide an additional update regarding the status of its pending discovery production at the hearing scheduled for January 30th.

Respectfully submitted,

R. TRENT SHORES
UNITED STATES ATTORNEY

/s/ Joel-lyn A. McCormick

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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of January, 2019, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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